



# MINUTES

## FEBRUARY 2022 MEETING ADMINISTRATIVE RULES REVIEW COMMITTEE

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### MEMBERS PRESENT

Senator Waylon Brown, Chair	Representative Megan Jones, Vice Chair
Senator Julian B. Garrett	Representative Mike Boussetot
Senator Jesse Green	Representative Amy Nielsen
Senator Robert Hogg [by teleconference]	Representative Rick L. Olson
Senator Pam Jochum	Representative Mike Sexton

EX OFFICIO, NONVOTING MEMBER: Michael Boal, Administrative Rules Coordinator, Office of the Governor

LSA CONTACTS: Organizational staffing provided and minutes prepared by Kate O'Connor, Legal Counsel, 515.281.6329, and Michael Duster, Senior Legal Counsel, 515.281.4800

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### BULLETINS NEEDED FOR THIS MEETING: 1/12/22, 1/26/22

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#### Procedural Business

Senator Brown convened the regular, statutory meeting of the Administrative Rules Review Committee (ARRC) at 9 a.m. on Friday, February 4, 2022, in Room 103, State Capitol, Des Moines, Iowa. The committee voted unanimously in favor, by short form vote, of nominating Senator Brown as Chairperson of the ARRC. The committee voted unanimously in favor, by short form vote, of nominating Representative Jones as Vice Chairperson of the ARRC. The minutes of the January 7, 2022, meeting were approved. The next meeting was scheduled for March 7, 2022. The meeting was adjourned at 10:25 a.m.

#### Fiscal Overview

Mr. Adam Broich, Fiscal Legislative Analyst, presented the LSA fiscal report.

#### HUMAN SERVICES DEPARTMENT

Representing the agency: Nancy Freudenberg

ARC 6151C (NOIA), Volunteer Services, Ch. 12

No discussion on ARC 6151C.

ARC 6152C (NOIA), State Resource Centers—Catchment Areas, Application for an Adult, Rules 30.1, 30.2(1)

No discussion on ARC 6152C.

Rulemaking type is indicated in parentheses following the ARC number. The acronyms have the following meanings: Notice of Intended Action (NOIA), Amended Notice of Intended Action (ANOIA), Notice of Termination (NOT), Adopted and Filed Emergency (AFE), Filed Emergency After Notice (FEAN), and Adopted and Filed (AF).

ARC 6153C (NOIA), Civil Commitment Unit for Sexual Offenders—Visits, Gifts, Ch. 31

Committee members asked if the department consulted the Iowa Ethics and Campaign Disclosure Board when rewriting these rules. Ms. Freudenberg responded the department did not; the department merely sought to align with the relevant statutory language.

No action taken on ARC 6153C.

ARC 6155C (NOIA), State Training School—Facilities, Reporting Gifts and Bequests, Rules 103.1, 103.9, 103.13(2)“b”

No discussion on ARC 6155C.

ARC 6157C (NOIA), Mental Health Institutes, Ch. 29

No discussion on ARC 6157C.

ARC 6161C (NOIA), Child Care Programs—Quality Rating System Redesign, Ch. 118

Committee members asked the department to provide an overview of the rules to Representative Ann Meyer, including the financial impact of changes to fines to determine what funding levels may be needed from the General Assembly in the future. Ms. Freudenberg stated the department would do so.

No action taken on ARC 6161C.

## **ADMINISTRATIVE SERVICES DEPARTMENT**

Representing the agency: Tami Wiencek

ARC 6162C (NOIA), Purchasing Thresholds for State Agencies, Rules 117.15, 118.5, 118.7(2), 118.8(2)

Committee members asked if these changes would be permanent or might be reversed later. Ms. Wiencek explained that the changes would be permanent and that the threshold for goods had not been changed since 2015 and the threshold for services not since 1998.

No action taken on ARC 6162C.

## **ATTORNEY GENERAL**

Representing the agency: Jessica Whitney, Bill Pearson, Nathan Blake

ARC 6145C (NOIA), Assurance of Voluntary Compliance, Ch. 38

Committee members asked what the legal status of an assurance is and whether the public would have access to it. Mr. Pearson explained that assurances are posted on the Attorney General’s website, are announced via press release, and are public records. He explained further that an assurance is a settlement agreement without a consent judgment, and the rules explain how it will be enforced and filed. He described how such assurances are posted on the website in a sortable Excel spreadsheet. Mr. Blake and Ms. Whitney provided additional background on how the public can access the records. Ms. Whitney explained that the assurance process has been used for decades and there have been hundreds and perhaps thousands of such agreements.

No action taken on ARC 6145C.

## **ALCOHOLIC BEVERAGES DIVISION**

Representing the agency: Tyler Ackerson

ARC 6138C (NOIA), Liquor Licenses; Beer Licenses; Wine Permits, Rules 4.5, 4.6, 4.10, 4.11, 4.33, 4.38, 5.1(7)

Committee members asked if the division would wait for a final response from the National Highway Traffic Safety Administration regarding federal compliance before adopting the rules. Mr. Ackerson explained that the division will wait for a response. Members asked if the plastic bag around a to-go container of alcohol would be labeled. He explained that the container must be labeled, but not the bag, although labeling on the bag would be sufficient.

No action taken on ARC 6138C.

## **LAW ENFORCEMENT ACADEMY**

Representing the agency: Russell Rigdon

ARC 6137C (AF), Jailer Training, Chs. 1, 2, 4, 7, 9-11, 13  
No discussion on ARC 6137C.

ARC 6154C (NOIA), Curriculum; Attendance Qualifications for Short Course Academy; Mandatory In-Service and Specialty Training, Chs. 3, 7, 8  
No discussion on ARC 6154C.

## **ENVIRONMENTAL PROTECTION COMMISSION**

Representing the agency: Mel Pins, Christine Paulson

ARC 6144C (NOIA), Air Quality—Electronic Submittal, Rules 20.2, 21.1(3), 22.1(3), 22.105, 22.128(4)  
Committee members asked how many businesses are not using the electronic filing process currently. Ms. Paulson stated that use of electronic filing has been increasing, and 88 percent of Title V applications and 80 percent of air construction applications have been submitted through the electronic system. Members asked if training is needed to transition to the electronic system. She explained that various free training opportunities are offered, as well as a help desk, although not all users require it.  
No action taken on ARC 6144C.

ARC 6147C (AF), Waste Tire Management, Rules 116.6(1), 117.7(2)  
No discussion on ARC 6147C.

## **NATURAL RESOURCE COMMISSION**

Representing the agency: Karmin Klingenberg

ARC 6143C (NOIA), Hunting Preserves—Definitions of “Game Birds” and “Ungulate,” Rule 112.1  
No discussion on ARC 6143C.

## **TRANSPORTATION DEPARTMENT**

Representing the agency: Clayton Burke, Sara Siedsma, Kelli Huser

ARC 6132C (AF), Warning Lights on Vehicles or Equipment Not Owned and Operated by the Department When Used in Road Work Zones, Ch. 135  
No discussion on ARC 6132C.

ARC 6141C (NOIA), Emergency Vehicle Certificate, Ch. 451  
Committee members expressed concern that the rulemaking carries out policy that was previously considered and rejected by the General Assembly in the form of legislation. Ms. Huser explained that the department feels the current rule is not compliant with statutory language, and the rulemaking is intended only to comply with statute and not to expand beyond existing statutory requirements. She said the current rules are more restrictive than required by Code, but the department would review any legislation in question. She said the department would be willing to wait to adopt the rules until such questions are resolved.  
No action taken on ARC 6141C.

## **ECONOMIC DEVELOPMENT AUTHORITY**

Representing the agency: Lisa Connell

ARC 6134C (FEAN), Downtown Loan Guarantee Program, Ch. 36  
No discussion on ARC 6134C.

ARC 6136C (AF), STEM BEST Appropriation, Ch. 15  
No discussion on ARC 6136C.

ARC 6139C (NOIA), Iowa Community Development Block Grant Program, Rules 23.2-23.17  
No discussion on ARC 6139C.

ARC 6140C (NOIA), Angel Investor Tax Credits, Ch. 115  
No discussion on ARC 6140C.

#### **PROFESSIONAL LICENSURE DIVISION**

Representing the agency: Tony Alden

ARC 6131C (AF), Marital and Family Therapists, Mental Health Counselors, Behavior Analysts, Assistant Behavior Analysts, and Social Workers—Supervision, Rules 31.5, 31.7, 280.6  
No discussion on ARC 6131C.

ARC 6142C (NOIA), Marital and Family Therapists, Mental Health Counselors, Behavior Analysts, Assistant Behavior Analysts, and Social Workers—Supervision, Rules 31.2, 31.5, 31.7, 280.6  
Committee members asked if the rules add additional requirements for the affected professions. Mr. Alden reviewed various requirements contained in the rules and the changes to the affected professions. Members asked for a list of changes, and Mr. Alden agreed to provide one.  
No action taken on ARC 6142C.

ARC 6146C (AF), Sign Language Interpreters and Transliterators—Licensure, Rules 361.1-361.3, 361.9  
No discussion on ARC 6146C.

#### **PUBLIC HEALTH DEPARTMENT**

Representing the agency: Susan Dixon

ARC 6156C (NOIA), Outpatient Diabetes Education Programs, Rules 9.2-9.10  
No discussion on ARC 6156C.

ARC 6158C (NOIA), Local Public Health Services, Ch. 80  
No discussion on ARC 6158C.

ARC 6159C (NOIA), Medical Cannabidiol Program, Ch. 154  
Mr. Dane Schumann, speaking on behalf of MedPharm Iowa, generally expressed support for the rulemaking, but urged the department to add a 90-day safe harbor provision for decertified patients who had not yet used all of the product in their possession. Ms. Dixon explained that the safe harbor provision had been erroneously removed from the noticed language and would be added back in.

Mr. Kevin O'Connor, also speaking on behalf of MedPharm Iowa, expressed support for the rulemaking, particularly the removal of the real-time requirement for transmission of manufacturing data to the department and of certain tracking requirements, as well as the reduction of application fees for veterans.  
No action taken on ARC 6159C.

ARC 6160C (NOIA), Personal Responsibility Education Program and Title V State Sexual Risk Avoidance Education Grant Program Funding and Restrictions, Ch. 78  
No discussion on ARC 6160C.

## **UTILITIES DIVISION**

Representing the agency: Matthew Oetker

ARC 6124C (AF), Regulation of Electric Cooperatives, Rule 27.1(2)“o”  
No discussion on ARC 6124C.

## **EDUCATIONAL EXAMINERS BOARD**

Representing the agency: Joanne Tubbs, Nicole Proesch

ARC 6125C (AF), Charter School Administrator Authorization, Rule 22.13  
No discussion on ARC 6125C.

ARC 6126C (AF), Substitute Authorization—Day Limitation, Rule 22.2  
No discussion on ARC 6126C.

ARC 6127C (AF), Licensure Renewal—Individualized Professional Development Plan, Rules 20.5(2)“f,”  
20.6(2)“f,” 20.9(2)“e,” 27.5(2)“e”  
No discussion on ARC 6127C.

ARC 6128C (AF), STEM and Dyslexia Endorsements; School Social Worker Statement of Professional  
Recognition, Rules 13.28, 16.6(2)  
No discussion on ARC 6128C.

ARC 6129C (AF), Deadline of Response to Motions; License Sanctions—Speech and Intellectual Freedom  
Protections, Rules 11.17(2), 11.35(2)“c”  
No discussion on ARC 6129C.

ARC 6130C (AF), Fees—Complaints and Hearings Involving Administrator Sanctions, Rules 11.33, 12.10  
No discussion on ARC 6130C.

ARC 6133C (NOIA), Teachers and Administrators—Licensure, Endorsements, Rules 13.5, 13.9, 13.11(1),  
13.28, 18.6(1)“d”  
No discussion on ARC 6133C.